IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 419 of 2003 (M/B)

The Pradeshiya Industrial and Investment
Corporation of U.P. Limited,
PICUP Bhawan, Vibhuti Khan,
Gomti Nagar, Lucknow …… Petitioner

Versus

1. State of Uttaranchal
   through Chief Secretary
   Civil Secretariat, Dehradun, Uttaranchal.
2. The Secretary, Deptt. of Revenue,
   Civil Secretariat, Dehradun, Uttaranchal.
3. The Addl. Secretary, Deptt. of Revenue,
   Civil Secretariat, Dehradun, Uttaranchal.
4. The district Magistrate,
   Udham Singh Nagar, Uttaranchal.
5. The Settlement Officer Consolidation
   Udham Singh Nagar, Uttaranchal.
6. The Assistant Consolidation Officer,
   Kashipur, Udham Singh Nagar.
7. Mr. Indra Kumar Sethi, S/o late Sri Laxman Das,
   R/o 143, Avas Vikas Colony Kashipur,
   Distt. Udham Singh Nagar, (Proforma Respondent)

…… Respondents

……

Miss Menka Tripathi, Advocate for the petitioner.
Mr. N.C. Gupta, Standing counsel for respondents 1 to 6.
None for respondent no. 7.

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C. J. (Oral)

Miss Menka Tripathi, learned counsel for the petitioner.

Mr. N. C. Gupta, Standing Counsel for respondents 1 to 6.

None for respondent no. 7.

2. The petitioner has filed this petition for the following reliefs:

"A. Issue a writ, order or direction in the nature of Certiorari quashing the impugned consolidation proceedings initiated by the respondents in respect of Khasra No. 151 and 158 situated in Village Gangapur Gosain, Tehsil Kashipur,

District Udham Singh Nagar after summoning the original records from the custody of the respondents.

B. Issue a writ order or direction in the nature of Mandamus commanding the respondents to exclude the land in question from Consolidation proceedings.

C. Issue a writ, order or direction in the nature of mandamus commanding the respondents not to interfere with the petitioner's peaceful possession over the land in question.

D. Any other writ order or direction, which this Hon'ble Court may deem just and proper in the circumstances of the case.

E. To award the cost of writ petition to the petitioner."

3. In substance, the petitioner was seeking exclusion of Khasra no. 151 and 158 situated in Village Gangapur Gosain, Tehsil Kashipur, District Udham Singh Nagar from the consolidation proceedings.

4. In the counter affidavit filed on behalf of respondents 1 to 6, para 6 contains following averments:

> "That in reply to the contents of para 7 of the writ petition, it is submitted that the plot no. 151 M and 158 M consisting of total 5 acre of land was checkout and the remaining plot no. 158/1 was checkout on 23rd April 2003. True photocopy of the Khatauni is annexed herewith and marked as Annexure no. C.A.1 to this affidavit. Thus, the plots in question were checkout and have been indicated as C.H.-18, however, the contention of the petitioner that the Consolidation Act shall not apply in the present case is misconceived."

5. Thus, form the above quoted para 6, it is apparent that the relief the petitioner was seeking in the writ petition has already been granted by the respondents and the same is further evident form Annexure C.A.1 (Copy of the Khatauni).

6. In this view of the matter, nothing survives in the petition for decision and the petition as such has become infructuous.

7. The writ petition, therefore, is dismissed as infructuous.

(Prafulla C. Pant, J.) 03.05.2006

(Rajeev Gupta, C.J.) 03.05.2006

A